**IN THE HIGH COURT OF JUDIATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.10287 OF 2004**

Dr.Vinay A.Desai & Ors. .. Petitioners.
Vs.
The Municipal Corporation
of Greater Bombay & Ors. .. Respondents.

Mr.V.S.Kapse for the petitioners.
Mr.A.Y.Sakhare with Mr.M.J.Humranwala and
Ms.Rohini Shelke for respondent no.4.

**CORAM : D.B.BHOSALE, J.**

**DATED : 22ND DECEMBER, 2004**

P.C.:

. Heard Mr.Kapse, learned counsel for the petitioners and Mr.Sakhare, learned counsel for respondent no.4.

2. Mr.Kapse, learned counsel for the petitioners states that he has instructions not to press this writ petition and the petitioners would be satisfied if they are given liberty to file a fresh application in terms of the observations made in the judgment of the Apex Court in **State of Maharashtra Vs. Ramdas Shrinivas Nayak and Anr. AIR 1982 S.C. 1249** seeking appropriate relief. This prayer was made by Mr.Kapse in view of the fact

that the learned Judge while closing examination of defendant no.7 on 10.12.2004 recorded that the learned counsel on behalf of defendant nos.4 to 6 declined to cross examine the witness which according to Mr.Kapse is not correct. I do not wish to enter into that controversy as the Apex Court has observed in the aforestated judgment "that the Judges' record is conclusive. Neither lawyer nor litigant may claim to contradict it, except before the Judge himself, but nowhere else". In view of this, the writ petition is disposed of as not pressed. It is open for the petitioners to make appropriate application before the learned Judge who passed the order impugned in the present writ petition. If such application is filed same may be considered in accordance with law.

. With these observations the writ petition stands disposed of.

**(D.B.Bhosale, J.)**